



PTO/SB/21 (09-04)

D.A.C. JFW

**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

10

Application Number

10/815,007

Filing Date

March 31, 2004

First Named Inventor

Jordan, Alan E.

Art Unit

3763

Examiner Name

Attorney Docket Number

022010-000310US

ENCLOSURES (Check all that apply)

- ☐ Fee Transmittal Form
☐ Fee Attached
- ☐ Amendment/Reply
☐ After Final
☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
☐ Express Abandonment Request
☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
☐ Reply to Missing Parts/ Incomplete Application
☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53

- ☐ Drawing(s)
☐ Licensing-related Papers
☐ Petition
☐ Petition to Convert to a Provisional Application
☐ Power of Attorney, Revocation
Change of Correspondence Address
☐ Terminal Disclaimer
☐ Request for Refund
☐ CD, Number of CD(s) _____
☐ Landscape Table on CD

- ☐ After Allowance Communication to TC
☐ Appeal Communication to Board of Appeals and Interferences
☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
☐ Proprietary Information
☐ Status Letter
☒ Other Enclosure(s) (please identify below):
Renewed Petition under 37 CFR 1.137(b),
Petition to Revive, copy of Decision on
Petition, Return Postcard

Remarks

The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

Townsend and Townsend and Crew LLP

Signature

Printed name

Steven C. Petersen

Date

November 18, 2005

Reg. No.

36,238

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature

Typed or printed name

Timothy S. Parker

Date

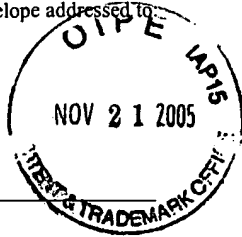
November 18, 2005

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

PATENT
Attorney Docket No.: 022010-000310US

Attn: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

On November 18, 2005



TOWNSEND and TOWNSEND and CREW LLP

By: _____

Trinity L. Paulin

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Alan E. Jordan, et al.

Application No.: 10/815,007

Filed: March 31, 2004

For: BREAST MILK EXPRESSION
SYSTEM AND METHOD

Examiner:

Art Unit: 3763

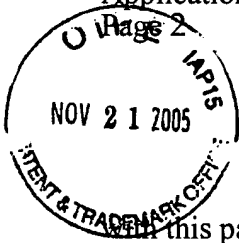
RENEWED PETITION UNDER
37 CFR 1.137(b)

Attn: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Decision on Petition dated September 27, 2005 issued in conjunction with the above referenced application, applicant encloses herewith a renewed Petition For Revival of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b). Per the Decision on Petition, the renewed petition is accompanied by a Declaration fully executed by co-inventor Theo Mann.

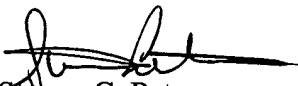
Applicant submits that all requirements for the grant of the petition under 37 CFR 1.137(b) as set forth in the Decision on Petition have now been met, and a formal notification of the reinstatement of this application at an early date is respectfully requested.



The Commissioner is hereby authorized to charge any additional fees associated with this paper or during the pendency of this application, or credit any overpayment, to Deposit Account No. 20-1430.

If a telephone conference would be helpful in expediting the processing of this matter, please contact the undersigned at 858-350-6159.

Respectfully submitted,


Steven C. Petersen
Reg. No. 36,238

Customer No. 20350

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 858-350-6100
Fax: 415 576-0300
SCP:tsp


| | |
|--|---|
| PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) | Docket Number (Optional) 022010-000310US |
|--|---|

First named inventor: Alan E. Jordan

Application No.: 10/815,007

Filed: March 31, 2004

Title: BREAST MILK EXPRESSION SYSTEM AND METHOD



Art Unit: 3763

Examiner:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee — required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☒ Small entity — fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity — fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Response to Notice to File Missing Parts (identify type of reply):

☒ has been filed previously on September 9, 2005

☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ _____

☐ has been paid previously on _____

☐ is enclosed herewith.

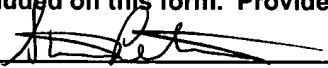
3. Terminal disclaimer with disclaimer fee

- ☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$_____ for a small entity or \$_____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. ☒ For fees authorized to be paid hereinabove, the Commissioner **was previously authorized in applicant's submission of September 9, 2005 to charge the fees, any deficiency of fees, and credit of any overpayments, to Deposit Account No. 20-1430**.

5. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

| | |
|--|------------------------------------|
| <u></u> | <u>November 18, 2005</u> |
| Signature | Date |
| <u>Steven C. Petersen</u> | <u>36,238</u> |
| Typed or printed name | Registration Number, if applicable |
| <u>Townsend & Townsend & Crew LLP</u> | <u>858-350-6100</u> |
| Address | Telephone Number |
| <u>12730 High Bluff Drive, Ste. 400, San Diego, CA 92130</u> | |
| Address | |

- Enclosures: ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unavoidable delay
- ☒ Other: inventor declaration

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

- ☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

November 18, 2005
Date


Signature

Timothy S. Parker
Typed or printed name of person signing certificate

**DECLARATION AND POWER OF ATTORNEY**

As a below named inventor, I declare that:

My residence, post office address and citizenship are as stated below next to my name; I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural inventors are named below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: **BREAST MILK EXPRESSION SYSTEM AND METHOD** the specification of which _____ is attached hereto or X was filed on March 31, 2004 as Application No. 10/815,007 and was amended on March 31, 2004 (if applicable).

I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, Section 1.56. I claim foreign priority benefits under Title 35, United States Code, Section 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed.

Prior Foreign Application(s)

| Country | Application No. | Date of Filing | Priority Claimed Under 35 USC 119 |
|---------|-----------------|----------------|-----------------------------------|
| PCT | PCT/US02/31307 | 09/30/02 | Yes |

I hereby claim the benefit under Title 35, United States Code § 119(e) of any United States provisional application(s) listed below:

| Application No. | Filing Date |
|-----------------|-------------|
| 60/326,755 | 10/02/01 |
| 60/326,756 | 10/02/01 |
| 60/326,757 | 10/02/01 |
| 60/326,751 | 10/02/01 |

I claim the benefit under Title 35, United States Code, Section 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, Section 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, Section 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

| Application No. | Date of Filing | Status |
|-----------------|----------------|--------|
| | | |

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

All Representatives Associated with Customer No. 20350

| | |
|---|--|
| Send Correspondence to: Steven C. Petersen TOWNSEND and TOWNSEND and CREW LLP Two Embarcadero Center, Eighth Floor San Francisco, California 94111-3834 | Direct Telephone Calls to: (Name, Reg. No., Telephone No.) Name: Steven C. Petersen Reg. No.: 36,238 Telephone: 858-350-6100 |
|---|--|

| | | | | |
|--------------------------|---|---|---|------------------------------|
| Full Name of Inventor 1: | Last Name: JORDAN | First Name: ALAN | Middle Name or Initial: E. | |
| Residence & Citizenship: | City: Bend | State/Foreign Country: Oregon | Country of Citizenship: United States | |
| Post Office Address: | Post Office Address: 17014 Cooper Drive | City: Bend | State/Country: Oregon | Postal Code: 97704 |
| Full Name of Inventor 2: | Last Name: BEAL | First Name: STEPHEN | Middle Name or Initial: C. | |
| Residence & Citizenship: | City: San Diego | State/Foreign Country: California | Country of Citizenship: United States | |
| Post Office Address: | Post Office Address: 4716 Shadwell Place | City: San Diego | State/Country: California | Postal Code: 92130 |
| Full Name of Inventor 3: | Last Name: KURJAN | First Name: CHRISTINE | Middle Name or Initial: M. | |
| Residence & Citizenship: | City: Mountain View | State/Foreign Country: California | Country of Citizenship: United States | |
| Post Office Address: | Post Office Address: 1715 Villa Street | City: Mountain View | State/Country: California | Postal Code: 94041 |
| Full Name of Inventor 4: | Last Name: MANN | First Name: THEO | Middle Name or Initial: | |
| Residence & Citizenship: | City: Woodland Hills | State/Foreign Country: California | Country of Citizenship: United States | |
| Post Office Address: | Post Office Address: 6257 Melba Aveune | City: Woodland Hills | State/Country: California | Postal Code: 91367 |
| Full Name of Inventor 5: | Last Name: WHITE | First Name: BRYAN | Middle Name or Initial: T. | |
| Residence & Citizenship: | City: Fremont | State/Foreign Country: California | Country of Citizenship: United States | |
| Post Office Address: | Post Office Address: 3454 Dayton Common | City: Fremont | State/Country: California | Postal Code: 94538 |
| Full Name of Inventor 6: | Last Name: BARNES | First Name: GRETCHEN | Middle Name or Initial: K. | |
| Residence & Citizenship: | City: San Francisco | State/Foreign Country: California | Country of Citizenship: United States | |
| Post Office Address: | Post Office Address: 1489 Sanchez Street | City: San Francisco | State/Country: California | Postal Code: 94131 |
| Full Name of Inventor 7: | Last Name: DAVIS | First Name: JENNIFER | Middle Name or Initial: E. | |
| Residence & Citizenship: | City: Belmont | State/Foreign Country: California | Country of Citizenship: United States | |
| Post Office Address: | Post Office Address: 1133 Alameda de las Pulgas, #5 | City: Belmont | State/Country: California | Postal Code: 94002 |

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 13 November 2005

Theo Mann

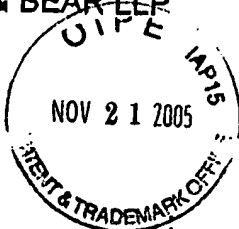
Theo Mann



UNITED STATES PATENT AND TRADEMARK OFFICE

022010-000310US
SCP, SDCommissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.govResponse Due 11/27/05

Docketing

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

COPY MAILED

SEP 27 2005

OFFICE OF PETITIONS

In re Application of
Jordan et al.

Application No. 10/815,007

Filed: March 31, 2004

Attorney Docket No. PRNYX-00101

DECISION ON PETITION

022010-000310US

This is a decision on the petition under 37 CFR §1.137(b) filed September 12, 2005 to revive the above-identified application.

This petition is hereby Dismissed.

Any request for reconsideration must be submitted within TWO (2) Months from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on June 14, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on August 15, 2004. This decision precedes the mailing of a Notice of Abandonment.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The instant petition lacks item (1). Although petitioner has provided an executed declaration, the declaration does not meet the requirements of 37 CFR 1.63 (a)(1). The

bkc

Application No. 10/815,007

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declaration has not been executed by Theo Mann. Where an inventor refuses or cannot be located a petition under 37 CFR 1.47 must be filed. Under 37 CFR 1.47(b) it may be appropriate for a representative to execute a declaration on behalf of an assignee. Where at least one inventor executes a declaration, a petition under 37 CFR 1.47(a) is appropriate. Under 37 CFR 1.47(a), an oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated. See 35 USC 116 and MPEP 409.03

A revocation of Power of Attorney was filed on October 27, 2004. However a review of the file does not show that a 37 CFR 3.73 statement has been filed. Accordingly the revocation and change of correspondence address will not be entered. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Petitioner submitted a five (5) month request for extension of time. However, pursuant to 37 CFR §1.136, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner's period for extension of time expired on January 15, 2005. Petitioner is ineligible for any extensions of time. Accordingly, deposit account number 20-1430 will be credited with \$1080.00 for fees paid to acquire an extension of time.

Further Correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office
Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Application No. 10/815,007

Page 3

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.



Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: Steven C. Petersen
Townsend & Townsend & Crew LLP
12730 High Bluff Drive, Ste. 400
San Diego, CA 92130